

REMARKS



By the present amendment, Applicant has amended independent Claims 1 and 9 and cancelled claim 6 and 15. Claims 1-5 and 7-14 remain pending in the present application and reconsideration of these pending claims is respectfully requested. The rejections of the office action dated May 16, 2006 will be considered in the order of their occurrence in the Official Action.

The drawings are objected to under 37 CFR 1.83(a).

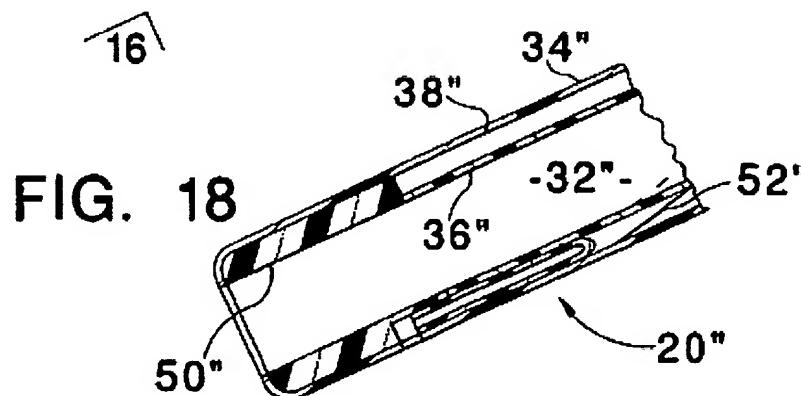
Claim 6 has been cancelled. No amendments to the drawings are currently being made.

Claims 1-2, 4-7, 9-10, 13-14 are rejected under 35 USC § 102(b) as being anticipated by Dalhart et al. 5,765,609.

The Applicant respectfully disagrees with the rejection and requests the rejection be reconsidered based upon the following:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The following image is from Figure 18 of the Dalhart reference:



The first element of the present invention is:

a generally tubular spout attached to said nozzle for directing a fuel supply from a valve within said nozzle to a discharge end of said spout;

The Dalhart reference has a generally tubular spout attached to a nozzle for a supply of fuel to the discharge end of the spout.

The second element of the present invention is:

an inside surface of said spout in direct contact with said fuel supply;

The Dalhart reference has inside surface of inner tube 36" which is or would be in direct contract with the fuel.

The third element of the present invention is:

an outside surface of said spout opposite of said inside surface; and

The Dalhart reference has an outer tube 34" which has a surface opposite of said inside surface 36"

The last element of the present invention is:

an endface surface of said spout, said endface surface generally continuous to both said inside surface and said outside surface of said spout.

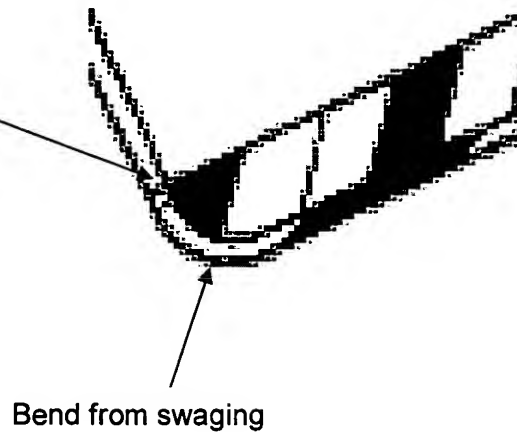
The Dalhart reference has an endface of ferrule 50" which is connected, but not continuous, to both the inside of tube 36" and outer tube 34". The bend shown on the outside of ferrule 50" is formed by swaging tube 34" around ferrule 50" and is not also continuous to inside surface of tube 36".

(Column 8 line 46 from the Dalhart reference)

"The distal end of the tube is then swaged inwardly to secure the block in place."

The bend created by the swaging does not create a continuous transition to the inside surface of inner tube 36", but rather forms a sharp corner which is a discontinuous transition. This type of transition causes fuel to build up at that location, and is exactly what the present invention aims to eliminate.

Not a "continuous "
surface
-- it is a sharp corner



To further clarify the claims of the present invention over the prior art, claim 1 has been amended by this office action response to have the endface surface create a curved and continuous connection between both the inside and outside surface of the spout. As argued above, the Dalhart reference does not show a continuous (no sharp breaks in the surface) between both the inside and outside surfaces -- as well as it does not show or describe a curved connection between the two surfaces. The Dalhart reference does not teach each and every element of the claimed invention.

Claims 2-5 and 7 are dependent upon now patentable independent claim 1 and are therefore themselves believed to be allowable.

Claim 9 has been amended, similar to independent claim 1, to include the creation of a curved and continuous endface surface. The aforementioned arguments for claim 1 apply to presently amended claim 9.

Claims 10 and 13 are dependent upon now patentable independent claim 9 and are therefore themselves believed to be allowable.

Claim 15 has been cancelled without prejudice.

Claims 3,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalhart et al. 5,765,609.

The instant invention is directed towards reducing the amount of residual fuel that resides on a nozzle spout after fueling. The goal is to have more fuel fall into the tank of a vehicle, rather than have it sit on the spout and evaporate into the atmosphere thus causing pollution. Evaporation of fuel vapors is a considerable industry problem that significant efforts have been expended to improve. The curved endface of the present invention solves one source of pollution: sharp corners on the endfaces of the prior art nozzles cause residual fuels to build up. While significant prior art existing on technologies such as vapor recovery, the source of pollution that the present invention improves -- has been undiscovered or unsolved.

The Dalhart reference teaches a manufacturing method for producing a fuel spout. Although the outside surface of the Dalhart spout is rounded, due to the need to swage in ferrule 50, there is no suggestion or motivation provided by the Dalhart reference to put a curved surface on both the outside and the inside corner of the spout. Without a suggestion, motivation, or expectation of success, one skilled in the art would not find it obvious to alter the Dalhart reference to have a curved surface on the inside and outside of the nozzle spout. A single radial surface does not provide the utility of the present invention as fuel still piles up. Without suggestion, motivation, or an expectation of success, one skilled in the art would not also have found it obvious to put an elliptical surface on the endface as claimed by claims 3 and 11. Applicant argues that the Official Office Action has failed to provide a prima facie case of obviousness due to the lack of providing suggestion, motivation or an expectation of success.

Claims 3 and 11 are directed towards an elliptical endface shape. These dependent claims, are reliant on independent claims 1 and 9 which require a continuous and curved endface shape. The dependent claims 3 and 11 claim a particular shape which provides the general utility as described by the present invention. The utility of the present invention is not limited to any particular curved or continuous endface shape. The data provided by Figure 11 of the present application is for a slightly elliptical shape.

Furthermore, without the hindsight of the present application, one skilled in the art would not know to alter the endface of the spout to a curved, or elliptical, shape in order to improve the flow of fuel off the nozzle spout. Applicant believes the current invention and rejected claims, when considered on the whole, are non-obvious and provide a unique solution to a long standing industry problem – pollution caused by fueling.

Lastly, since claims 3 and 11 are dependant upon amended independent claims 1 and 9, they are also in a state of allowance.

Allowable Subject Matter.

Applicant acknowledges and appreciates the allowance of claims 8 and 12 per the Official Office Action.

Conclusions

The Dalhart reference does not teach each and every element of independent Claims 1 and 9. Applicant has amended these claims in order to provide better clarity of the unique elements. Furthermore the Dalhart reference does not teach, show, or describe a nozzle having a continuous and curved elliptical endface for the intended use of reducing residual fuel amounts. Applicant believes the supplied claims are both novel and non-obvious when considered as a whole. The statements from the Examiner regarding the level of skilled in the art are not substantiated and fail to provide a prima facie case of obviousness due to the lack of providing suggestion, motivation or an expectation of success. After consideration of this Amendment, and the arguments presented herein, if the Examiner still believes the claims to not be in a state of allowance the Applicant respectfully requests evidence per MPEP 2144.03 regarding reliance on common knowledge in the art or “well known” prior art.

Applicant respectfully requests that early reconsideration and allowance of this application be given. Should the Examiner consider necessary or desirable any formal

changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the this case to issuance. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, they are invited to telephone the undersigned.

Respectfully submitted,

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Date

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